

**IDAPA 33 - IDAHO REAL ESTATE COMMISSION**  
**33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION**  
**DOCKET NO. 33-0101-0902**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-2007 and 54-2013, Idaho Code.

**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**THURSDAY, OCTOBER 29, 2009 -- 10:00 a.m.**

**IDAHO REAL ESTATE COMMISSION**  
**633 N. Fourth Street, Boise Idaho**

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule would clarify the current rule to state that a late renewal constitutes a lapse of the required errors and omissions coverage, even if coverage is later made retroactive by the carrier.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: No fee is being imposed or increased.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because interested groups participated in open meeting discussions prior to publication of the rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact: Jeanne Jackson-Heim, Executive Director, Idaho Real Estate Commission, Phone: (208) 334-3285; toll free in Idaho: (866) 447-5411; Fax: (208) 334-2050.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 27th day of August, 2009.

Jeanne Jackson-Heim  
Executive Director  
Idaho Real Estate Commission  
633 N. Fourth St., Boise, ID 83702  
PO Box 83720, Boise, ID 83720  
Phone: (208) 334-3285  
toll free in Idaho: (866) 447-5411  
Fax: (208) 334-2050

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 33-0101-0902**

**121. FAILURE TO MAINTAIN INSURANCE.**

Failure of a licensee to obtain and maintain insurance coverage required by Subsection 117.02 shall result in inactivation of any active license issued pursuant to Idaho Real Estate License Law or denial of any application for issuance or renewal of an active license. Failure to maintain insurance as required herein shall be deemed insufficient application for licensure under Section 67-5254, Idaho Code. (4-2-03)

**01. Notice of Noncompliance.** Within five (5) working days of the date the Commission is notified that a licensee does not have required coverage, the Commission shall notify the affected licensee of noncompliance. Notice shall be sent by first class mail to the licensee's business or residence address, as reflected in the Commission's records, and a copy of the notice shall be sent to the licensee's broker, if any. The notice shall provide that the licensee has ten (10) days in which to comply with the law and these rules regarding errors and omissions insurance. Failure to comply at the end of ten (10) days shall result in the license being automatically inactivated. (4-2-08)

**02. Reactivation.** Any licensee whose license has been inactivated for failure to comply with these rules shall be entitled to activate said license, relating back to and including the date of inactivation, provided that, within thirty (30) days of the date of inactivation, the licensee or Group Plan Administrator files with the Commission a certificate of coverage showing that such coverage has been and is currently in effect on and from the date of inactivation, with no lapse in coverage. Further, the licensee must submit required documents and fees to activate said license. In the event the certificate of coverage shows an effective date later than the date of inactivation, said license shall be activated as of the effective date of said insurance, as reflected in the certificate of coverage, and upon submission of any required documents and fees. (3-15-02)

**03. Failure to Maintain Insurance.** Any failure of a licensee to maintain errors and omissions insurance or failure of a licensee to submit or cause to be submitted a certificate of coverage as required by Section 54-2013, Idaho Code, and in accordance with these rules and while engaging in the business of real estate broker or real estate salesperson, as defined in Sections 54-2002 and 54-2004, Idaho Code while on active license status, regardless whether coverage is later obtained and made retroactive by the carrier, shall constitute a violation of these rules, and shall be grounds for disciplinary action as provided in Sections 54-2059 and 54-2060, Idaho Code, including but not limited to the assessment of civil fines. A late renewal is considered failure to maintain insurance and constitutes a violation of the law. (3-15-02)(\_\_\_\_)